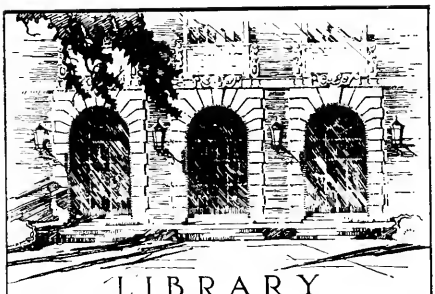

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THE

HOUSE OF LORDS

AND

THE NATION.

BY

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WITH

PREFACE by the EARL of CARNARVON.

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PREFACE.

BY THE EARL OF CARNARVON.

I HAVE been requested to write a few words of introduction to the following pamphlet on the House of Lords; and it is an agreeable task to bear witness to its singularly fair and truthful reasoning. There is nothing from which I materially differ, there is very much in which I cordially agree. In its moderate and argumentative style, in its complete freedom from personal abuse, unfair attack, or exaggerated statement, it presents a remarkable contrast to articles and papers which have lately been written against the House of Lords, and which, by their injustice and violence, seem to drag us back into the worst political literature of the last century.

I heartily and sincerely recommend it to the careful reading of those who desire to know the facts of a case that has been grossly misrepresented. They will find in it nothing, I believe, that is not consistent with fact, and that has not the warrant of History.

With prejudiced partisans I have no concern; but to conscientious and reasonable men, who desire to be satisfied as to the rights of the question, I would say, "Test the allegations of Radical speakers and pamphleteers by the certain facts of History, and study these facts not in the pages of Tory writers but in the deliberate conclusions of Liberal Historians, where there can be no suspicion of favour or partiality towards the House of Lords." Is it possible to make a fairer proposal? And if indeed the offer be accepted and the question studied from this point of view—of course I mean broadly and fairly, not picking out exceptional sentences or facts, or divorcing the general meaning of the writer from the context—it will, I

think, be admitted that the reasoning of this pamphlet is amply and abundantly confirmed.

Errors of judgment, intemperate conduct, perhaps even selfish action may occasionally be traced in the parliamentary history of the House of Lords; but what body of men has there ever been, or will there be, of which this cannot be said? Unworthy members, rotten limbs which I wish we could cut off, there have been and must be, but what body of men has there ever been, or will there be, of which this cannot be said? Let him or they who are immaculate cast the first stone. If, indeed, individual cases are to be cited, it would be easy to name by the score those in the House of Lords who have with pre-eminent ability guided legislation and upheld public affairs, or, on the other hand, who have simply and conscientiously made their wealth and abilities the source of comfort and happiness to thousands who depended upon them.

I believe that if, like reasonable men, and not like children, carried away by every breath of rhetoric, we look dispassionately at the whole course and conduct of the House of Lords for many generations back, the verdict will be that that House has shown often more liberality, very often more wisdom than, and always as much patriotism as the House of Commons.

The revolution of 1668 was as much due to the English aristocracy and the House of Lords as to any man or men in the country. In the early part of the 18th century it was the House of Lords which threw its shield of protection over Lord Somers, Sir Robert Walpole, and, on more than one occasion, over the Dissenters too, though it may now suit Radical politicians to ignore this. It was the House of Lords that maintained the House of Hanover, and upheld the Protestant succession. These were great events; and compared with them the events and legislation of our day will seem in the eyes of a future historian to be insignificant and petty. Again, as we consider the parliamentary history of the close of the 18th century, it is neither demagogues nor members of the House

of Commons, but great Peers that withstood the arbitrary power of the Crown, or opposed Lord Bute and the corruption of Henry Fox. The Dukes of Richmond and Devonshire, Lord Fitzwilliam, and others, were at one time the mainstay and representatives of public liberty, and the bulwark against an overweening court and a servile minister. Go on yet one step further, to that great war when a Liberal Opposition thwarted the military conduct of the Duke of Wellington, and did their best to starve the British army abroad; and it was the House of Lords that never flinched when the honour, credit, and safety of the country were at stake. And on the conclusion of that great struggle it will not be found that the aristocratic government of England were the friends of tyranny abroad. On the contrary, their support was given to the constitutional Governments that were growing up in Europe. Misrepresentation and abuse have been heaped upon Lord Castlereagh, but modern history has brought out the fact that he was no friend to tyranny. Nor must it be forgotten that, at the end of the great war, it was that same aristocratic government that restored Sicily to the Italians, Java to the Dutch, that defended Holland under critical circumstances, and did its best, though unsuccessfully, to save Poland. It was finally no demagogue who carried the famous Reform Bill of 1832. It was an aristocratic government, at the head of which was one, than whom no greater aristocrat breathed—Lord Grey.

There are, I think, four undeniable facts which may be asserted of the House of Lords during the last half century. First, a steady growth and adaptation of the House to the social and political changes of the time may be traced. It reflects, indeed, our essentially English practice in silently and unconstrainedly adapting itself to the requirements of the day. It has thus interwoven itself, as it were, with English sentiment, and had become an integral part of the English nation. Secondly, by the general opinion of the country, and on the authority of distinguished Liberals, it may challenge, for ability

in debate and for business power, comparison with the House of Commons. Thirdly, it remains a firm bulwark of the Crown; and, whilst a bulwark—thanks to its hereditary character—it has maintained its independence of the Crown. Fourthly, and lastly, taking all circumstances into account, there has been a remarkable and extraordinary harmony between the House of Lords and the House of Commons.

Let me only add that all this can be proved, not from the pages of Conservative writers, but from the careful conclusions of Liberal historians. I might pursue this reasoning further, and point out how untrue it is to represent the House of Lords as a mere Conservative assembly. Up to the reign of George III. the House of Lords was Whig; but with the French Revolution it changed—and why? Because it reflected the character and temper of the whole nation. At that time the whole nation was Tory. It was alarmed by the atrocities of the French Revolution, and the House of Lords reflected faithfully the temper of the nation. But after the Reform Bill of 1832, parties in the House of Lords gradually became more evenly balanced—so evenly balanced, indeed, that during the time Lord Palmerston was Prime Minister it was hard to say that the Conservative Opposition was stronger than the Liberal Government. When a vote of censure was moved by the late Lord Derby, on the occasion of the Chinese war, the Conservative Opposition were beaten by 37 votes. But, if the House of Lords is Conservative now, the reason is plain. It is the present Government that has alarmed the House, and has driven over from the Liberal to the Conservative side men who, from father to son, have been Liberal. It is that the House of Lords is reflecting now, as it did at the French Revolution, the education, the sense, the respectability, the good feeling, the intelligence of the country.

But it is objected that the House of Lords is founded on the principle of hereditary descent, and that that principle is inconsistent with the ideas of our day. Inconsistent with the ideas

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of our day! It might as well be said inconsistent with the moving principles of human nature; for it is in that hereditary principle that the appeal to many of men's highest instincts lies. A man toils not for himself, but for his son; for him he spends his life, and strength, and energy, as on him he pours out his affections; and the son, in his turn, when he succeeds to his father's place, succeeds not to his wealth and property alone, but to that which is the best part of his inheritance, to his fair fame and credit. That fair fame is the pledge of his future conduct and the earnest of good service to the State. It may be said, in Lord Bacon's words, that the Peers, if true to themselves and their duties, are "thrice servants—servants of the Sovereign or State, servants of fame, and servants of business."

But it is also on this hereditary principle that the independence of the House of Lords is founded. Take it away, and I know not what substitute can be found. Nomination? It has been repeatedly tried in our Colonies, but no colonial statesman would recommend it, except as the next best substitute for our English system, which is of course impossible there. Election? It has also been tried and it has been found even less satisfactory in its operation than nomination. A constitution analogous to that of the Senate of the United States? It is admitted that the materials do not exist in this country.

Whilst, then, I say now, as I have often said before, that I would refuse consideration to no wise or well considered proposal which would give strength or greater efficiency to our second chamber, it needs little knowledge of human nature, of History or statesmanship, to understand that they, who lightly discard the principle of hereditary descent, may find that they have cast aside that which even under the freest and most popular institutions may have a value little dreamed of by modern Liberals. Surrounded by the traditions of historic antiquity—no small merit in days of change—it maintains a visible connection between past and present England; and it adds dignity to an ancient monarchy, stability to the forms

and substance of government, and a silent, but not ineffective protest against those less generous influences which are ever striving to assert themselves in a money making and money worshipping generation.

CARNARVON.

August 20th, 1884.

THE HOUSE OF LORDS & THE NATION.

The question in dispute.

THE recent action of the majority of the Peers, in declining to read the Franchise Bill a second time while the Government Redistribution scheme remains altogether undisclosed, has been made the occasion of an outcry against the present constitution and powers of the House of Lords. Some of those who join in it clamour for the total abolition of the House, while others are content to insist on its thorough reform, and on a considerable curtailment of its powers. It is not the first occasion in our history that this outcry has been heard. As is well known, the last time that it was seriously raised was during the agitation which preceded the passing of the Reform Bill of 1832. There is a singular contrast between the circumstances of that epoch and those of the present day. Then it was the party of reform who pressed upon the Peers "the Bill, the whole Bill, and nothing but the Bill." Now it is the Peers, who, in requiring that the plan for the extension of the franchise shall be accompanied by the scheme for the redistribution of seats, are insisting on the measure, the whole measure, and nothing but the measure. On the other hand, the motto of the Government policy is in fact, at present, "the part, the little part, and nothing but the part."

It is not difficult to decide on which side lie right and reason. We need only refer to the words uttered five-and-twenty years ago by that great authority on the subject of reform, Mr. John Bright, when he laid it down as a maxim of universal application, that it is the duty of Englishmen to repudiate without mercy any Bill of any Government, whatever its franchise, whatever its seeming concessions may be, if it does not contain provisions for a redistribution of seats.

The Lesson of the Commonwealth.

But the political power of the Peers had been assailed before the present century. In January, 1649, the House of Commons passed a resolution that the House of Peers was useless, dangerous, and ought to be abolished; and in the spring of that year, within four months after King Charles I. had been brought to

the scaffold, an ordinance was passed (which twelve years later was unanimously condemned as utterly unconstitutional and illegal) to the effect that England should be governed as a Commonwealth by the representatives of the people in Parliament, without any King or House of Lords.

Let those who conceive that a similar measure at the present day would be advantageous to the country, consult history as to what was the result of that proceeding two hundred and fifty years ago. Was the authority of the House of Commons increased by the proceeding? Was the country benefited by it? Scarcely had four years elapsed from the time of its taking place, when he, who had been the ruling spirit in accomplishing the overthrow of the Upper House, found it expedient to do away with the Lower House also. The power of the Commons, instead of being augmented by its release from the check of a co-ordinate assembly, had become absolutely effete. The House, which not many years before had resented the intrusion of the King into its debates as an unwarrantable breach of its privileges, tamely submitted while Oliver Cromwell, with an armed force, interrupted its proceedings. We all remember how he ordered the removal of the Speaker's mace (which, through the degeneracy of the House, had, in fact, become what he designated it, a mere "bauble"), how he ejected the members, and locked the doors. After this Cromwell made one or two further attempts to govern the country with a House of Commons alone. But success did not attend the experiment. He had recourse a second time to a body of soldiers to disperse the country's legislators; and the newly elected House, which met in 1654, was allowed so little freedom that every member was stopped at the door by an armed guard and refused admission until he had subscribed a declaration that he would not vote for any alteration in the government. When another election took place in 1657, upwards of a hundred of the representatives returned by the constituencies were regarded by Cromwell as disaffected towards himself, and were prohibited by him from taking their seats.* It is instructive to notice that so convinced did he at last become of the impracticability

* This is the period referred to by Sir Wilfrid Lawson in St. James's Hall, on August 9th, 1884, when he reminded his hearers that "We had got on very well without the House of Lords for nine years during the Commonwealth, and had never been more prosperous." So much for Radical interpretation of history!

of carrying on the government with one House, that shortly before his death he revived, after a fashion, the Upper House, limiting, however, its members to a few of his own adherents. Meanwhile the country had become thoroughly disgusted with the condition to which it had been brought by the overthrow of the ancient Constitution, and was weary of the military despotism which had followed the abolition of the monarchy and the suppression of the House of Lords. As those two disastrous measures had been adopted at the same time, so the reversal of them was destined to take place simultaneously.

In April, 1660, upon the meeting of a new Parliament under the auspices of General Monk, the Peers reassembled of their own accord in the House of Lords, and no opposition was made to their doing so, although the ordinance dissolving that House remained in form unrepealed. As is well known, the restoration of the monarchy followed within a few weeks, and legislation by King, Lords, and Commons, which had been suspended for ten years, was permanently resumed, to the intense relief and satisfaction of all classes of the community.

The present danger.

But, it may be said, it is unreasonable to conclude that because the overthrow of the House of Lords was followed by the degradation of the House of Commons in the seventeenth century it would necessarily be attended with a similar result in the present day. Possibly it might be unreasonable, if there were not actually ominous signs to be discerned, which unmistakably support that conclusion. It would be an insult to the memory of Oliver Cromwell to draw a parallel between him and our present Prime Minister. Great as were his faults, Cromwell was an undoubted statesman, under whose firm and straightforward policy the name of England was respected, her flag honoured, and her counsels received with deference throughout the civilised world. But Mr. Gladstone resembles the Protector in his impatience of any assembly which does not implicitly follow his behests. We have seen how Cromwell, after overthrowing the Upper House, proceeded to attack and overawe the House of Commons. We shall hereafter have occasion to notice three distinct blows which Mr. Gladstone during the last fifteen years has levelled at the authority of the House of Lords; and he, at the same time, makes no secret of his desire to alter the procedure and curtail the liberties of the House of Commons. Already, two years ago, we have had the Parliamentary session adjourned to the autumn for that special

purpose; but Mr. Gladstone is careful, whenever the opportunity offers, to express, in replies to deputations and correspondents, his conviction that the labours then bestowed on the matter were a failure, and that the mode of conducting business in the Lower House requires to be reformed in a yet more trenchant manner.

There is an old proverb which directs us where to assign the blame when a workman complains of his tools. It would seem to apply with even greater force, if the workman continues to complain after he has attempted to mend and sharpen them. Moreover, when the workman laments that he cannot get through his job, and yet never resorts to the sharp edge which he himself forged for the purpose, the suspicion cannot help being awakened that he is purposely abstaining from using it with a view to persuade a credulous nation that he requires a yet keener weapon, with which they would be unwilling to entrust him unless they were persuaded that it was absolutely essential. Whether or not this was Mr. Gladstone's design in refraining from putting in force the *clôture* during the wearisome hours which were wasted on Supply by Irish Members towards the end of July and beginning of August in the present year may be a matter of conjecture. But the fact remains that, notwithstanding his own amendments of it in 1882, he has denounced the present procedure of the House of Commons no less clearly than his followers have condemned the existing powers of the House of Lords.

The questions to be solved.

Of course, if the continuance of these powers is fatal to the best interests of the country, we must not be deterred from endeavouring to abolish or restrict them by the risk that we may at the same time damage the political fabric of the Lower House. But the existence of this risk is an additional reason why, before joining in the campaign against the Peers, we should pause and ask ourselves seriously and anxiously whether by doing so we should be taking a course calculated to further the welfare of the nation. The questions to be solved are two in number:—(i.) Is the maintenance of a second Legislative Chamber of any kind desirable? And (ii.) if it is, is it expedient that the present House of Lords should be continued as the Second Chamber, or should some assembly differently constituted be substituted for it? It is proposed in the following pages to discuss these questions in the order in which they have been mentioned, with a view to arriving at a sound conclusion on the whole matter.

I.—IS A SECOND LEGISLATIVE CHAMBER OF ANY KIND DESIRABLE?

Testimony of antiquity.

There has never been any very serious difference of opinion as to the answer which should be given to this question. It is true that some closet philosophers have affirmed that the existence of a Second Chamber is unnecessary for, and even injurious to, Constitutional Government. But the common sense of mankind has preferred to be guided by experience in the matter, and has decided with tolerable unanimity in the opposite direction. In the Republics and Constitutional States of ancient Greece, among the Ionians, Æolians, and Dorians alike, at Athens, at Thebes, and at Sparta, we find during their best epochs the government divided between the Boule or Gerousia, which corresponded with the Roman Senate, and the Agora, or popular assembly. In those cases in which the Boule was in course of time overthrown by revolution, the free institutions of the State did not long survive its fall. In the palmiest days of the old Roman Republic political power was divided between the Senate and the Comitia, or assemblies of the people; and it was the weakening of the power of the Senate which opened the way for the overthrow of the Republic by the Cæsars, and for the despotism of the later Emperors. In the early barbaric stage of the Frankish and German tribes, who have ultimately developed into the modern nations of Western Europe, we do not expect to find any very matured political institutions. Before they subdued the Roman Empire, and were themselves subdued by its civilising influences, their government was of a simple and informal character. Yet we learn from the historian Tacitus that even then not only the king or the chief of the tribe, but also a council, composed of a select body of his followers, shared with the general assembly of the tribe the control over public affairs.

Testimony of modern times.

The general adhesion which in modern times has ultimately been given to the principle of a two-chambered legislature cannot be better described than in the words of Professor Lieber. Imprisoned in his youth, and expelled from the schools in Prussia on account of his democratic opinions, he cannot be accused of any aristocratic tendencies:—

"Although," he says, "practice alone can show the whole advantage that may be derived from the system of two Houses, it must be a striking fact to every inquirer in distant countries, that not only has the system of two Houses historically developed itself in England, but it has been adopted by the United States in all the thirty-one States, as well as the six now existing territories, and by all the British Colonies where local Legislatures exist. We may mention even the African State of Liberia. The bi-cameral system accompanies the Anglican race like the common law, while no one attempt at introducing the uni-cameral system in larger countries has succeeded. France, Spain, Naples, Portugal—in all these countries it has been tried, and everywhere it has failed.* The idea of one House flows from that of the unity of power, so popular in France. The bi-cameral system is called by the advocates of democratic unity of power an aristocratic institution. This is an utter mistake. In reality, it is a truly popular principle to insist on the protection of a Legislature divided into two Houses."

Recent constitutions.

Since the Professor penned these lines in his great work on "Civil Liberty and Self-Government," the bi-cameral system, as he calls it, has been further adopted in the Austrian Reichsrath, the Hungarian Diet, the Italian Parliament and the Imperial German Parliament, and in the Federal Assembly of the Dominion of Canada. The French also have wisely taken warning from the rapid fate of their First and Second Republics, to which the system of having only one Chamber no doubt largely contributed, and have in their present Third Republic constituted two Houses, a Senate and a Chamber of Deputies. It requires no small stock of credulity to believe that all the nations, beginning with the United States of America, which have thus copied the composition of our own Parliament, have been in error in doing so. And he must be a man of no little arrogance and self-conceit who presumes to set up his own opinion in favour of a single-chambered Legislature against the verdict of history and against the conclusions of Lieber, Kent, and Story, and other great American writers, and the weighty European authorities who maintain that Representative Government cannot permanently be carried on without a Second Chamber, that the bi-cameral system is an essential guarantee for the maintenance of order and liberty, and that a single legislative assembly invariably brings misery upon a State by its instability, its violence, and its impassioned temerity. It really does not appear necessary to spend further time in proving that

* The Professor might have added the instance of our own country, in which, as we have seen, Cromwell himself found it ultimately necessary to revive a Second Chamber after trying in vain to govern without one.

the answer to our first question ought to be in the affirmative, and that a Second Legislative Chamber of some kind is not only desirable but essential.

Our second question is open to more difference of opinion, and requires to be considered at greater length.

II.—IS IT EXPEDIENT THAT THE PRESENT HOUSE OF LORDS SHOULD BE CONTINUED AS THE SECOND CHAMBER OF THE PARLIAMENT OF THE UNITED KINGDOM?

In order to arrive at a right decision upon this question, it behoves us to inquire into (*a*) the Constitution of the House, and the advantages or disadvantages which are consequent upon it; and (*b*) the benefit or otherwise which the House, as actually constituted, has conferred on the country during the course of our history.

(*a*) *The Constitution of the House.*

The Composition of the House of Lords.

In considering the constitution of the House of Lords, it is important to bear in mind that this constitution does not owe its origin to any cut-and-dried scheme or any carefully concocted design. It is the product of events, and only reached its present condition after the lapse of centuries. It possesses, in fact, that feature of natural growth, as opposed to artificial construction, which has distinguished all our institutions from those of foreign countries, and goes far to account for their superior permanency and stability. The existence in the early German tribes of select councils, as well as general tribal assemblies, has been already pointed out. When the tribes of Angles and Saxons who settled in England first formed themselves into kingdoms, their councils developed into witenagemots (assemblies of the *witan*, or wise men). Upon the consolidation of the Heptarchy into one kingdom, under the sovereign of Wessex, the Witenagemot of Wessex became enlarged into the Witenagemot of all England, and was composed of the lay nobles and the bishops, abbots, and priors of the realm. The Witenagemot survived the Norman Conquest, but it was thenceforth called the Great Council. The right to attend it was at first possessed by the lay and spiritual heads of the counties—the counts or earls, and the archbishops and bishops—and by such other laymen and

such abbots and priors as held baronies from the Crown, and also by those tenants of the Crown who held land of less extent than a barony, but were bound to render military service in respect of it. Henry II. commenced the practice of sending special writs of summons to the individuals who were to attend the Council; and he and his successors did not confine the writs to those who, as above mentioned, had the privilege of attending, but introduced into the assembly lawyers and clerks whom it was desired to raise to judicial or administrative offices. Gradually, the receipt of a summons, and not the possession of a barony, came to be considered as conferring the right to be present, and the omission of a summons was held to debar a baron from attending. By Magna Charta, however, the King bound himself to summon all the archbishops, bishops, abbots, earls, and barons, and also the lesser tenants of the Crown. After the constitution, in the latter half of the thirteenth century, of a Lower House to represent the interests of the Commons, some of the lesser tenants of the Crown were elevated to baronies, and the rest were no longer summoned. In this way the Upper House became ultimately confined to the lay and spiritual Peers. The number of the former was not at this time large. In the last Parliament before the outbreak of the Wars of the Roses, fifty-three are recorded as having been in attendance. Their ranks were considerably thinned by those wars, and Henry VII. summoned only twenty-nine to his first Parliament. The spiritual Peers constituted at this time the majority of the House; but by the dissolution of the monasteries about thirty-six abbots and priors were withdrawn, and the bishops who remained formed about one-third of the whole peerage. All this time, while the spiritual peerages had descended to the successive occupiers of the sees, or monastic dignities, in respect of which they had been originally conferred, the lay seats in the House of Lords had been occupied in successive generations by the owners of the baronies or estates to which they had been attached, and thus had, for the most part, descended from father to son.

About the end of Elizabeth's reign the general practice became recognised as a rule, and the receipt of a writ of summons to the Upper House was held to confer a hereditary peerage, independently of the question whether the son retained his ancestral estate. Moreover, in 1626, it was laid down as a fundamental principle, that every Peer of full age is entitled to

his writ of summons at the beginning of a Parliament, and that the House will not proceed with business if any Peer is denied it. Since that time the alterations in the constitution of the House of Lords have been five in number. (i.) By the Act of Union with Scotland in 1706 there were added to it sixteen representative Peers for that country, to be chosen at the commencement of each Parliament by the Scottish Peers. (ii.) The Act of Union with Ireland in 1801 made a further addition of twenty-eight representatives of the Irish peerage. These, however, are chosen for life. (iii.) Since the beginning of George III.'s reign, the number of lay Peers has been more than doubled, so that it now exceeds five hundred. (iv.) Notwithstanding the increase in the number of bishoprics during the present reign the number of spiritual Peers has been reduced. The Irish bishops have ceased to be members of the House, and the number of the English episcopal seats has been kept stationary, the prelates (except the two Archbishops and the the Bishops of London, Durham, and Winchester, who sit at once) succeeding to them, as vacancies occur, in order of seniority. (v.) In 1876, provision was made for increasing the judicial strength of the Upper House by the appointment from time to time of four law lords of appeal in ordinary, who enjoy the title of Baron for life, without transmitting it to their heirs, and are entitled to a seat in the Upper House as long as they continue to exercise their judicial functions.

These changes, however, have not substantially altered the composition of our Second Chamber; and it may be truly affirmed that, just as our present Sovereign can trace back her lineal descent to Cerdic, who founded the kingdom of Wessex in 519, so the House of Lords, as it now exists, is the modern development, through an unbroken succession, of the Witenagemot of Wessex of the sixth century, which, as already mentioned, became, upon the consolidation of the Heptarchy, the Witenagemot of England. It is thus something like 1,300 years old, or more than double the age of the House of Commons.

Two salient features.

Shall we then retain this ancient institution or substitute some other for it? To decide this we must consider what are its characteristic features, and what it would be possible to have in their place. The two salient and counter-balancing principles in the present constitution of the House of Lords are, on the one hand, the hereditary descent of its seats, and, on the other hand, the

unlimited power of the Crown, or, in other words, of the Minister of the day, to create new Peers. The first principle ensures the independence of the House, the second provides for the continual influx into it of new blood and new ideas, and gives the opportunity of retaining for the country the benefit of the counsels of distinguished men who have served their time in the more exhausting scenes of contested elections and the House of Commons, or may be for various reasons unable to enter into those scenes. Either principle without the other would produce a baleful result, but the two together work with benefit to the nation, and it would be difficult, if not impossible, to devise a scheme which could be substituted with advantage for their combined operation.

Alternatives possible.

For if the present constitution of the House is to be abolished, what are the alternatives before us? The tenure of seats for life, or some shorter period, either by nomination or election. Few persons, if any, would advocate a Second Chamber entirely composed of nominees of the Crown, that is, of successive Governments. It is certain that if this had been the composition of the House of Lords in old times, when the Power of the Crown was more or less completely in the hands of the individual Sovereign, the British Constitution would not have been what it is. It was the Peers who originally won the liberties of England, and it was their territorial and hereditary status which gave them independence and enabled them to do so. Our freedom and rights are no longer in danger from the personal encroachments of the monarch, but history contains not a few instances of an individual who has been raised to power by the suffrages of the people having ended by destroying their liberties. The whole current of modern practice has been against the principle of nomination, and to entrust the composition of the Second Chamber to a succession of Prime Ministers, enjoying for the time the confidence of a majority of the nation, is a plan which no sane politician would seriously propose.

Objections to election.

There remains, then, the method of election. This is the scheme which is being strenuously advocated by Radical speakers and writers at the present time. There is no accord, however, between them as to the details of the scheme, and no wonder. For it is impossible to frame details which would be otherwise than unsatisfactory. Shall the members of the Upper House be

elected by the Peers? This, if the political power of the Peerage is an evil, would only be to focus and intensify the evil. It would add to rather than detract from the strength of the Lords, while it would destroy that breadth and comprehensiveness in the House which, as will be pointed out later on, is one of the best of its present features. Shall they then be elected by the same constituencies as elect the members of the Lower House? If they are, what claim can one House more than the other make to be the chief representative assembly? The origin of the two being identical, their functions will become confounded, their relations to each other will be unreal and productive of constant misunderstandings. The remaining alternative that they should be elected by a select class among the commoners is one which need only be mentioned to be at once condemned.

Foreign practice no precedent.

It may, however, be urged that an elected Senate has worked admirably in America. Granted that this is so; but the American constitution, by its peculiarities, admits of a mode of electing a Senate which would be impracticable in our own country. The Senate of the United States is not elected by the citizens at large, but by the State legislatures, two senators being returned by every State. It is obvious that the working of a Senate so elected furnishes no criterion as to the probable working of an elected Upper House among ourselves, when the mode of election, whatever it might be, would certainly be completely different from that which exists in America. The more influential nations of Europe have not adopted an elective Upper Chamber. In the German States, including Austria, some of the members are hereditary, and the rest are nominated for life, or become life members by tenure of office. In Italy, all the members, except the Royal Princes, are nominated for life. Even in Republican France the Senate does not consist entirely of elected members. Of the 300 members, 75 hold their seats for life, and vacancies in these seats are filled up by the Senate itself. The remaining 225 are chosen at intervals by the Senatorial electors, some of whom are elected by the communes and municipalities, and the rest are local officials.* The case of Belgium, where the members of the two Houses are elected by the same constituencies, is, as will be noticed later on, one to be held up as a warning, and not as a pattern.

*Alterations as to the Senate are, however, under consideration.

Greater power of an elected Second Chamber.

Besides the considerations which have been already adduced, there is one further point about an elected Second Chamber which must not be left unnoticed. Those who at present advocate it do so with a view to put a stop to that undue interference with the measures proposed by the Commons, of which they allege the House of Lords to be guilty. But a little reflection will convince us that the proposed alteration in the constitution of the Upper Chamber would have an exactly opposite effect. At present, however much any of the Peers may in fact represent the opinions and sentiments of their fellow-countrymen, they can make no claim that they do so, and though responsible to public opinion in general, they are not so to any constituencies in particular. Recognising, therefore, that the will of the commons of England must ultimately decide all public questions, they invariably defer sooner or later to that will when expressed through the representatives of the commons in the Lower House. Content, moreover, with their assumed position as Peers of the Realm, the majority of them do not seek for political distinction within the walls of the House of Lords, but allow the course of legislation to flow smoothly and rapidly through their Chamber without that delay which would inevitably take place, if a larger number of the members, however benevolent their intentions, were to take part in it. But make the members of the Upper House elective, and all this would be changed. They would represent, and would feel themselves responsible to, distinct constituencies; and in duty to those constituencies they would feel bound to assert themselves, in the first place by continually taking an active and prominent part in all the legislation of the country, and, in the second place, by occasionally performing that function which they had been specially elected to discharge, namely, thwarting the proposals of the Lower House.

Now, even supposing this second course to be rarely or never adopted, has the consequence of the first course ever occurred to the Radical mind? We are all aware of the laments over the difficulty of getting through business in the House of Commons at the present day; but are we aware of one of the chief causes of that difficulty? In former days, when five-sixths of the members were silent, and their constituencies were content that they should be so, no such difficulty existed. But now that the constituencies, one and

all, expect their members to take an active part in the proceedings of the House, by asking questions, if in no other manner, and the members do not disappoint their constituencies, the wheels of public business are inevitably retarded. Let us imagine the same state of things introduced into the Upper House, the slow progress of measures through it which would be the consequence, the small divergencies which would arise on almost every subject between the two Houses, the bandying backwards and forwards of Bills, and the conferences between the two Houses, which would take place for the purpose of settling the points in dispute, and some idea may be formed of the degree of benefit which the country would reap from substituting an elective Second Chamber for the present House of Lords.

Advantages of an hereditary House.

Instead, therefore, of craving after imaginary improvements, which a closer inspection reveals to be impracticable of attainment, and, to say the least, of but questionable benefit if we could attain to them, let us inquire whether there are not, after all, advantages in the state of things which we actually have. If we do, we shall discover benefits in the much-maligned hereditary constitution of the House of Lords which escape the superficial survey of the Radical mind. We must first recollect what this hereditary constitution is not, as well as what it is. It means the descent of the title and legislative seat of each Peer to his heir, and so on from generation to generation; but it does not mean that the Peers form an hereditary caste by themselves, with class privileges and class prejudices distinguishing them from their fellow countrymen. So far from this, the younger children of Peers and their descendants are commoners, with no political privileges or legal rights above those of the humblest subject of the realm. Nay, more, the eldest son himself is only a commoner, like the rest, until his father's death. The same holds true of all the children of the Sovereign, except the eldest son and eldest daughter, who have by law special privileges.

It is scarcely possible to exaggerate the beneficial effect of this feature of our Constitution in banding all ranks together, and preventing the growth of an exclusive nobility out of sympathy with the rest of the nation. Without this feature it may be at once admitted that an hereditary peerage would have been a curse to the country, but tempered by this feature it is, as we shall proceed to show, a blessing. In the first

place, there can be but one answer to the question, which of the two is likely to take a more real and deep interest in his country's welfare—a member of the Upper House, who should merely possess a seat in it for his life, with no past traditions encircling himself and his fellow peers, and no prospect of handing down to his descendants the fame and product of his labours; or the peer under the existing system, who is, perhaps, the descendant of a long line of patriotic statesmen, and, at any rate, has the prospect of transmitting the results of his achievements to a succession of ennobled heirs. Considering the political heritage which they have in their keeping for their descendants, the saying of Bacon, that men who have children have given hostages to society, applies with tenfold force to hereditary Peers; but to life Peers it would have no more special application than to the rest of their fellow-countrymen.

It is true that we unhappily find that the obligations attaching to nobility are not invariably recognised. Black sheep will from time to time appear among the Peers, as among members of the House of Commons and other bodies. In Edward IV.'s reign, George Neville, Duke of Bedford, was, by Act of Parliament, degraded from the peerage on account of his poverty, which rendered him unable to support his dignity. It is worthy of consideration whether this precedent should not be revived in cases not of poverty but of grave misconduct, and made generally applicable, so that an unworthy Peer should lose the dignity not only for himself but also for his heirs. This, like the many forfeitures of peerages on attainder for high treason, which have taken place in former times, would be no real interference with the hereditary principle; but, whether we adopt it or no, that principle should be judged not by its occasional abuse but by its general advantages.

We pass on, therefore, to consider a second advantage which we derive from it, namely, the existence of a certain number of statesmen trained to political life from their youth. There have been recently scoffs at the idea that we could hope to obtain a body of hereditary statesmen any more than a body of hereditary mathematicians; but, if the question is looked into a little more narrowly, the scoffs will be found to be out of place. If politics could be exactly compared to mathematics, it is the members of the House of Commons, and not the Peers, who would be condemned by the comparison. For who has ever become a great mathematician without careful train-

ing in figures in his youth, if not in his boyhood? Yet we admit among the ranks of our statesmen men like Mr. Chamberlain, who have spent their early manhood in enriching themselves—shall we say at the expense of their fellow-countrymen?—well, at any rate, with the help of their toil, and have only taken to politics at the age of thirty, or perhaps later. Unfortunately, it is not so easy to decide whether a man is a truly sound and wise politician as whether he is an accurate mathematician; but those who have raised this scoff against the Peers are reduced to the following dilemma: If their comparison between the two pursuits is just, then, since a man cannot become a mathematician without severe study in the early part of his life, we must conclude that he cannot become a true statesman without the same training, and we must reject, as unfit to govern us, all persons like Mr. Chamberlain, who cannot show that they have undergone this training. But if the comparison cannot be pressed to this length, then it is clear that politics and mathematics do not stand on the same footing, and the argument that an hereditary body of politicians is as impossible as an hereditary body of mathematicians falls to the ground. The truly reasonable view of the matter is that, although the hereditary principle does not ensure that the heir to a peerage shall be a statesman, yet it gives him special facilities for becoming so.

So far, after all, the parallel between politics and any other branch of knowledge will hold good. The son of a mathematician has special opportunities for becoming himself a mathematician. Sir John Herschel would probably never have been what he was if he had not been the son of Sir William Herschel. Darwin largely owed his attainments as a natural philosopher to his early training under his scientific father; and similar instances might be multiplied without number. But the heir to a peerage has not only peculiar facilities for becoming a politician, he has also special inducements to do so. For he knows that he has a field for the exercise of his political attainments secured to him for life, not dependent upon the caprice of a body of constituents. He can, therefore, devote himself to the study of politics without being all the time discouraged by the uncertainty whether he will ever be able to turn his labours to account. It is well to recollect that we owe to this circumstance many useful members of the House of Commons, no less than of the House of Lords; the instances being not a few in which the future

Peer begins his political career in the Lower House during his father's lifetime.

It is no answer to say that these results are not found to occur universally. There would be no real advantage in their doing so. For it has been shown above that if every born Peer were a born legislator, the result, instead of being beneficial, would be disastrous to the nation. We should, then, indeed, have too many cooks spoiling the broth of the country's affairs. There are plenty of functions for public men to discharge outside the walls of Parliament; and we may be content if the hereditary principle gives us a certain number of statesmen, of whose services the country would not otherwise have had the benefit.

Limitation of number inexpedient.

But if this is sufficient, the question next arises whether it would be desirable to limit the number of members of the Upper House, either by restricting the whole peerage, or by only permitting a fraction of Peers to sit in it. To this question a little reflection will enable us to answer emphatically, No. Neither course would conduce to the interests of the nation at large. In 1719 and 1720 attempts were actually made to limit the ranks of the nobility. It was proposed that the then existing number of 178 peerages should not be augmented by more than six, though the Crown was to retain power to create new peerages in the place of any which might become extinct, and, instead of the 76 representative Peers, 25 hereditary Peers of Scotland were to have permanent seats. This proposal, however, was wisely rejected. It was foreseen that it involved the danger of the Peers becoming crystallised into a narrow oligarchy, and that the country would sustain a positive loss if deserving individuals could not be raised to the peerage whenever their own merits or the public welfare rendered it desirable, without the necessity of waiting till a vacancy should occur in the ranks of the Lords by the extinction of a peerage. We may estimate what that loss would have been by calling to mind the many distinguished men of both parties, and of all occupations, with which the House of Peers has been enriched through the absence of any limit on its number.

The other scheme, that, namely, of only allowing a limited number of representative Peers to sit in the Upper House, has never been seriously put forward. It is open to grave objections, one of which has been already alluded to. Peers, sitting in the House on behalf not only of themselves, but also of

their fellow Peers who had elected them, would of necessity be far more jealous of maintaining the power of their own order and anxious for its interests, and far less able to take up an independent position in politics, than they are at present, when they can all form and express their own opinions, and adopt their own line of action, without being responsible to other members of their body. They would speak and act in many cases not in accordance with their own convictions, but in accordance with the wishes of the less statesmanlike portion of the peerage whom they had been sent to represent in the House. That this evil has not shown itself in the case of the representative Peers of Scotland and Ireland is due to the fact that representation is confined to their case, and is not the principle which pervades the whole House. But, it may be said, this is an evil which is inseparable from any system of representation, and it already exists in the Lower House. True; and the country doubtless suffers from the extent to which members of the House of Commons often speak and vote in accordance with the mandate which they have received from their constituencies, instead of in accordance with their own convictions and with the weight of the arguments which are brought forward in debate. We shall not soon forget the confession on this point made by Mr. Laing in the Vote of Censure Debate on May 12, 1884, when he said that he, at least, must decline to vote any longer that black was white at the bidding of the Government whips. The evil must be endured in the Lower House, because it is a physical impossibility that the voice of the people can be heard in that House otherwise than by representation; but why introduce it into the Upper House when no necessity exists for the importation into it of the representative system? The fact is, that its absence is one of the best features of our House of Lords as at present constituted.

In discussing democratic forms of government, all political writers distinguish between a pure democracy, where each citizen has a direct voice and vote in administration and legislation, and a representative democracy, where these functions are committed to a limited body, selected for the purpose from time to time by their fellow citizens; and all agree in assigning the palm to the former, where its existence is practicable. Of course, among ourselves it is out of the question. We cannot form either the 5,000,000 electors whom we are to have, nor even the present 3,000,000, into a legis-

lative assembly; and, therefore, we are obliged to have recourse to the inferior method, and constitute our House of Commons by representation. But small States, such as ancient Athens, and Rome, in her early and palmy days, would never have dreamt of recourse to representation, while all their citizens could personally attend the assembly. And, similarly, while the number of our Peers is less than that of the House of Commons, it would be the height of unwisdom to substitute a system of representation for their individual political responsibility. It would not only unnecessarily deprive the nation of the counsels of individuals, whose occasional presence in the deliberations of Parliament is of the greatest service, but it would deal a heavy blow on the present broad and democratic character of our Upper House.

(*b*) *The Verdict of History on the House of Lords.*

Magna Charta. It remains for us to submit the working of our present Upper House to the test of history. Have the Peers, on the whole, done good service to the country or the reverse? All Englishmen are agreed that the keystone of the liberties of the people is to be found in MAGNA CHARTA, and that no other measure can compare with it in importance. But when we dwell on the benefits which we derive from Magna Charta, how often do we call to mind that we owe those benefits to the Peers of England? It was the Lords who extorted Magna Charta from King John in the meadows of Runnymede. It was the Lords who insisted on a solemn ratification of it by the two succeeding sovereigns, Henry III. and Edward I. Not only so, but they obtained at the same time the Charter of the Forests, which gave relief from the oppressive forest laws, to which the people had been previously subject, and was in those days considered only second in importance to Magna Charta itself. Further it was the Peers who brought about the representation of the counties and boroughs in Parliament; and thus it is to the Lords that the House of Commons owes its very existence. For a long time after this latter House came into being, the records of Parliament do not clearly show the distinct parts in legislation which were taken by the two Houses; but the important services on the field of battle, on the sea, and in the council chamber, which have been in all ages rendered to the country by individual Peers, are notorious to every reader of our history. With these,

however, we are not here concerned. Our inquiry must be confined to the House of Lords as a legislative and deliberative assembly, and as a branch of Parliament.*

Charges against the modern conduct of the House.

Before, however, we pass in review the conduct of the House in modern times, we must form a clear idea of what have come to be the recognised functions of the House in matters of legislation and administration; for it is evident that upon the accuracy of the idea which we form with respect to these will depend the correctness of the verdict which we pass upon the conduct of the House. Much of the censure which is at present being levelled at the Peers from the Radical camp consists in blaming them for doing that which it was their recognised function to do, and for omitting to take a part which was clearly outside their duty. Much of this censure, too, is inconsistent and self-contradictory. Thus, to take a glaring instance, one Radical authority proposes that the Lower House should have a veto upon their proceedings, so that if, after they had rejected a measure in one session, it was again sent up to them by the Commons in the following session, they should have no power of rejecting it a second time. But another Radical writer derides them for adopting the very course respecting the Ballot Bill which they would have been obliged to take if this veto and limitation of their powers had been the law of the land. For in 1871 they rejected the Bill; but in 1872, on its being again sent up to them by the House of Commons, they consented to pass it. Again, one opponent censures them for retarding the progress of Radical legislation, and introducing Conservative amendments into Radical measures, for discharging, in fact, the primary duties of a Second Chamber. Another attempt to excite odium against them is by dilating on the small proportion of beneficial legislation which has initiated with them, and the scanty deliberation which they bestow on the measures sent up to them, regardless of the fact that it is not their function to initiate legislation on what are all called the burning questions of the day. Yet the real reason why more Bills are not actually started in the Upper House, and why the Peers so

* The subjects treated of in the following pages have been admirably and exhaustively handled by Lord Salisbury in recent speeches. All supporters of our Constitution are deeply indebted to his Lordship for the fund of arguments founded on history, experience, and reason with which he has supplied them.

often hurry through the Bills which come up to them from the Commons, is that the Government have persistently refrained from initiating in the House of Lords measures which might well have been discussed there in the first instance, and are in the habit of sending up from the Commons such a crop of Bills at the close of the Session that the Peers are unable to bestow upon each the time and attention which it requires. It should be observed, however, that the charges of unduly altering the Commons' measures, and of not vouchsafing to them sufficient consideration, are mutually destructive of each other. Lastly, if, out of deference to the House of Commons, the Peers consent to pass a measure of which they do not thoroughly approve, they are sneered at by the Prime Minister as wanting in courage and chivalry,* while if they do maintain their opinions against those of the Lower House, when they have all right and reason indisputably on their side, an outcry is raised that their powers must be curtailed, or even their House itself abolished.

Modern Functions of the House.

Let us now turn away our attention from this babel of discordant clamourings, and enquire what are the true functions of the House of Lords under our Constitution as it has been developed in modern times. The inquiry is rendered difficult by the fact that we have no written Constitution to consult, such as exists in the United States and now in France, as well as in other civilised nations in which a constitutional form of Government has been an acquisition of recent date. The glory of our Constitution is that, though never committed to paper, it has been maintained almost inviolate from generation to generation, developing with the development of the nation, and changing just as much as the changes in the condition of the nation require, and no more. In the course of this development and change the House of Lords, which was originally the chief legislative assembly of the country, has come at length to

* On August 11, 1881, Mr. Gladstone, speaking in the House of Commons on the subject of the Irish Land Bill, said:—"The courage of the Party opposite was such that they divided valiantly against the second reading in the House where they knew their division could not have the smallest effect; and in the House where they knew that if they divided against the second reading the bill would have been thrown out, there their courage failed them. The chivalry of the minority of this House was not reflected in the action of the majority of the other."—"Hansard's Parliamentary Debates," vol. 264, col. 1570.

occupy the position which is assigned by all the best political writers and thinkers to a Second Chamber, namely, that of being a check upon the Lower House. Of course this is not the whole of its functions. It is true that it has not the special prerogatives and peculiar authority which is possessed by the Senate in America, as, for instance, the right of vetoing all appointments to offices made by the President. But we ought never to forget the useful part which the House of Lords takes in private Bill legislation, nor the services which its members who are in the Ministry render to the country in the different departments of the Government, and in the management of the concerns of the nation at home and abroad. Nor should we lose sight of the value of its debates on colonial and foreign affairs in elucidating the facts of the situation, and ascertaining the policy which ought to be adopted. But on important questions it has now for a long time been recognised that the will of the country at large must ultimately prevail; and when that will is clearly and unmistakeably expressed, the House of Lords ought to defer to it, and does, in fact, always sooner or later do so. But this, be it observed, is a very different thing from saying that the Lords ought always and in all matters to defer to the will of the House of Commons. That House, immediately after a general election, and especially as to subjects which were under discussion during the election, must be regarded as an undoubted exponent of the sentiments of the nation. But it by no means necessarily remains so after three or four years have gone by, when public opinion has changed, when the constituencies have been altered by the death of old electors and the registration of new voters in their place, and when subjects are brought forward which were not even alluded to at the general election. Our Radical friends would be the first to deny that the sentiments of the country were represented by the House of Commons during the fifteen months which preceded the entire reversal by the General Election of 1880 of the proportion of the two parties within its walls. Suppose, therefore, that in the course of 1879 the Lords had adopted the Radical view on some Conservative measure, which had been sent up to them from the Lower House, would they have acted rightly or wrongly, constitutionally or unconstitutionally?

Nor, again, does it follow that because the country has expressed generally its desire for a particular measure, it

would therefore necessarily approve of every clause which the Bill embodying that measure contains when it leaves the Lower House. The Peers may, therefore, reasonably claim liberty to make amendments in the Bill, without being accused of thwarting the will of the people. How far they should carry this liberty, what measures they are bound to consider as indisputably approved by the country at large, and what, on the other hand, they may consider as coming to them under circumstances which render the question of that approval doubtful, it is, of course, in many cases not easy to decide. Infallibility is not to be found in any body of men, any more than in any individual man; but it may be safely said that, if an error is to be made, it is far better for the Upper House to err on the side of caution in the matter, and to reject for a time a measure of which the country does in reality approve, than hastily to pass a Bill which, though carried in the House of Commons of the day, does not represent the true sentiments of the nation. For the evil occasioned by the latter course would be difficult, if not impossible, to remedy; whereas a mistake of the former kind merely involves a brief delay, since, if the country really shows that it is bent upon the measure passing, the Lords will withdraw their opposition to it. It is better in every way that the chariot of national progress should move slowly and surely rather than hastily and inconsiderately. No one wishes it to stand still; but if it is violently pushed forward with sudden and irregular plunges, it will unquestionably be sometimes pulled back with no less spasmodic jerks. Hitherto we have happily experienced no reactions of this kind. When a Conservative House of Commons succeeds a Radical one, there is no idea of reversing the measures which were passed in the previous Parliament. Why? Because those measures are stamped with the sanction of both parties, owing to the Conservative House of Lords having given to them an assent which was, at any rate in theory, voluntary. And here we see the evil which would arise from any such rule as that the Lords should not have power to reject a second time a Bill sent up to them from the Lower House. A Radical measure passed over their heads by the operation of such a rule as this would have been passed by one party in the State alone. When, therefore, the Conservatives came into power they would have a clear right to repeal the measure, and it would be surprising if they did not exercise the right. The same evil would arise if we had no Second Chamber, or if the

revolution, which is suggested by some so-called reformers, were to be effected, and our Second Chamber were to be elected by the same constituencies as the House of Commons. In either case the measures which were passed in a Radical direction would be the measures of one party alone; and when the time came for the swing of the political pendulum, and for the return of the Conservative party to power, their first proceeding would be to reverse all the acts of the previous Parliament. That this is no imaginary danger is evident from what we see actually take place in Belgium. In that country the Second Chamber is unfortunately elected by the same constituencies as the First Chamber. The consequence is that there being complete accord between the two Chambers, the party in power can carry their measures through the Legislature without check or restraint; and when there comes a change of public opinion, and a dissolution occurs, the new Chambers immediately begin with repealing the results of the labours of their predecessors.

Conduct of the Peers in modern times.

We are now in a position to consult history, and ascertain whether the Peers have properly discharged their duties, and benefited the country on critical occasions in modern times. We have already seen how, in the seventeenth century, the downfall of the House was the precursor of the military tyranny which dominated over the country during the so-called Commonwealth, and contributed not a little to render that tyranny possible. We have seen how the revival of the House coincided with the restoration of constitutional government in 1660. To both Houses alike belongs the credit of steering the vessel of the State safely through the Revolution of 1688; but it was the body of the Peers who effected the peaceable succession of George I. on the death of Queen Anne, in 1714. Had it not been for their action, a return of the Stuart dynasty might not improbably have taken place. At any rate, the country could hardly have escaped a civil war, far exceeding in magnitude the comparatively insignificant outbreak of the following year. The next crisis in our history in which the House of Lords played an important part was nearly seventy years later. In 1783, Mr. Fox carried through a servile House of Commons by a large majority his outrageous India Bill, which, if passed into law, would have placed the whole official patronage of India, both civil and military, in the hands of the Cabinet of the day. The Lords rejected the measure, and, on

the downfall of the coalition administration which ensued, supported the younger Pitt, who had undertaken to form a new Ministry, against the majority of the House of Commons, who did their best to overthrow him. The story of how Mr. Pitt held his ground, how the majority against him in the Lower House gradually diminished on every division, how at length after a conflict of three months, he appealed to the country, and how the new electors gave him a triumphant majority in the House of Commons forms one of the most interesting episodes in our constitutional history. Its value in our present inquiry consists in the fact that it furnishes an important instance in which the Lords resolutely adopted the right course in defiance of the Commons, and in which their conduct received the warm support and approbation of the country.

The Reform Bill of 1832.

When we come to the proceedings as to the Reform Bill in 1831–2, we, no doubt, find that the Peers, as a body, made a mistake; but even in this case they ultimately yielded. If, however, we look a little closer into the causes which led to this resistance, we shall see that they were such as could not possibly occur again, and that they were in fact connected not with the character and composition of the House of Lords, but with that of the House of Commons. And it is well to remember that even on the Reform Bill of 1831-2 the Peers did not all of them adopt a hostile attitude; and that Lord Grey in particular mainly contributed to its ultimate success. It is well also to remember that, as was always insisted on by Lord Beaconsfield, this Reform Bill was by no means a perfect measure; that it actually disfranchised considerable numbers of the working classes, and placed political power in the boroughs in the hands of a portion of the middle classes, arbitrarily determining whether they should or should not possess the franchise by the accident of whether their houses were above or under the annual value of £10.

Subsequent history.

And the actual state of the case was, in truth, very quickly perceived by the country. The Lords did not long suffer in popular esteem from the pardonable mistake which they had committed. Nor did success attend the renewed outcry which, in the course of the next few years, was attempted to be raised against them because they did not endorse every word of every Bill which was sent up to them for approval by the reformed House of Commons in the crude and inexperienced exercise of its new

powers and in the first blush of its legislative zeal. The General Election of 1841 returned a strong Conservative majority to the House of Commons. The experience of 1783-4 was, in fact, repeated; for it was proved that the Upper House had divined the true temper of the nation with more accuracy than the Lower. A further repetition of this experience occurred in 1857, which is instructive as showing that the Lords are no Tory Caucus, as Mr. Bright has called them, but that they are ready to support a Whig Minister if he appears to them to be acting in a manner conducive to the welfare of the country. In that year the policy of Lord Palmerston with regard to the China war was arraigned in both Houses. He obtained a victory in the Lords, who refused to pass the vote of censure upon him, which was moved by the Tory leader, the late Lord Derby; but he was defeated in the Commons, and dissolved Parliament. The country, however, agreed with the Lords in approving of his policy, and returned a new House of Commons, which retained him in power until his subsequent defeat on a wholly different question.

The Ballot Bill.

But we must pass on to our own immediate times. We have already alluded to the rejection of the Ballot Bill by the Upper House in 1871 and their passing of it in 1872. The majority of the House had in the interval satisfied themselves that the opinion of the country preponderated in favour of the measure. But their opposition, in the first instance, cannot be considered unjustifiable when we remember the terrible increase of corruption, which, according to the testimony of more than one of our election judges, resulted from the introduction of voting by ballot, and which led to the passing of that very stringent measure, the Corrupt Practices Act of 1883. Nor can it be considered illiberal, when we remember that one of the foremost opponents of the Bill was Lord Shaftesbury, than whom no living man has done more for the welfare of the people of England. It is true that the beneficial provisions of the early Factory Acts were passed by him when he was a member of the House of Commons. But the fact remains, that the working classes received this boon from the heir to a peerage, who probably owed his presence in the House of Commons to the fact of his being so, and who has since become one of the hereditary members of the Upper House. It should also be remembered that those provisions were passed in the face of the most strenuous

opposition from Mr. Bright, who, in reference to them, posed, not as the friend of the people, but as the selfish master-manufacturer. And yet Mr. Bright dares to stigmatise the legislative action of the House of Lords as presenting a picture of class selfishness and obstinate resistance to what is liberal and just! What does he say to the Law reforms which have been initiated in the House of Lords during recent years? What to the Land reforms effected by Lord Cairns' Conveyancing and Settled Land Acts, which he introduced into the House of Lords and passed through Parliament without any very hearty support from the Radical Ministry? What does he say to the following three instances, out of many which might be cited, of the watchful solicitude displayed by the Peers for the true interests of the people?

Railway Legislation, &c.

(i.) In 1864 the House of Lords resolved, on the motion of the late Lord Derby, then leader of the Conservative Party, that it be an instruction to the Committee on every Railway Bill providing for the construction of any new Railway within the Metropolis, to insert in the Bill provisions for the purpose of securing to the labouring classes a cheap transit to and from their labour by a morning and evening train. (ii.) In February, 1879, the Lords appointed a Select Committee of members of their House to inquire into the prevalence of habits of intemperance, and into the manner in which those habits have been affected by recent legislation and other causes. This Committee made careful researches into the subject, and the report which they presented to the House gave a decided impetus to the movement in favour of temperance, which has happily been making such progress amongst us during the last few years. (iii.) In July of the present year, on the motion of Lord Salisbury (who had previously in other ways shewn the interest which he takes in the dwellings of the poorer classes), the House of Lords adopted a standing order that every Bill for the construction of a railway through the Metropolis should be required to contain clauses providing not only that compensation should be given to the members of the working classes who were evicted, but also that, so far as possible, the amount of house accommodation which was suitable for persons of that class, should not be diminished by the works of the railway.

Testimony of M. Clémenceau.

We will close our remarks on this subject by quoting, as against Mr. Bright's calumny, the testimony of M. Clémenceau, who

is one of the most democratic of French politicians. On August 13th, 1884, in the debate on the French Revision Bill, he said that—

"A few months ago he had paid a visit to England, and had been in communication with the leaders of the working men's party. He asked them—'Have you any grievance, have you any cause for complaint against the Government, against the House of Lords, against the Tory Party?' The answer he received was unanimous; it was this:—'We have no reason to complain; the laws we want passed are passed, and we have no fault to find with the House of Lords or with the Tory Party; they have behaved perfectly fairly to the working man, and the House of Lords and the Tories are always anxious to deal fairly with the working man, improve his lot, and grant him what he is legitimately entitled to expect."

Mr. Gladstone and the House of Lords.

The proceedings with reference to the Ballot Bill gave rise to no constitutional question. Unfortunately the same thing cannot be said respecting the three other occasions on which Mr. Gladstone has come into conflict with the Lords. In 1871, when they rejected his Bill for the abolition of purchase in the Army, he resorted to the high-hand proceeding of using the Royal Prerogative to frustrate their opposition. By a Royal Warrant he imposed upon the country a measure which, whether or not it has given us a better army, has undeniably cost us something like £18,000,000. Again, in 1882, when they had committed what was in his eyes the heinous offence of appointing a committee of their own to inquire into the working of the Irish Land Act of the previous year, Mr. Gladstone wasted four precious nights of the early part of the Session in carrying through the House of Commons a resolution declaring "That Parliamentary inquiry at the present time into the working of the Irish Land Act tends to defeat the operation of that Act, and must be injurious to the interests of good government in Ireland." The resolution was passed, but it was, of course, powerless to prevent the committee of the Lords from prosecuting their labours. What was the result? The committee reported, and their report contained some valuable suggestions, which the Ministry themselves subsequently adopted.

The present crisis.

The third conflict between Mr. Gladstone and the Upper House is that into which the whole nation has been drawn, upon the merits of which both sides are now endeavouring to obtain its informal opinion, and upon which it will no doubt be called upon to record a solemn verdict in the polling booths before many months have

elapsed. Let us see what is the position which the Lords have actually taken up in this conflict, and what is the justification for that position.

The attitude of the Lords.

At the General Election of 1880 the subject of a further reform of the House of Commons was hardly mentioned. During the first four sessions of the present Parliament, no allusion was made to it in the Queen's Speeches, nor was any Bill on the subject introduced. It is permissible to doubt whether if the Ministry had been successful in their general policy, we should have heard anything of the Franchise Bill in the session of 1884. But the country was becoming disgusted with their disastrous failures in South Africa, in India, in Ireland, and in Egypt. Attention must, at all hazards, be drawn off from these failures by some novel and engrossing subject of interest. A mandate went forth from high places; a Radical Conference was assembled at Leeds in the autumn of 1883; and resolutions were passed that the extension to all the householders of the realm of the franchise, which was already enjoyed by occupiers of houses within the limits of parliamentary boroughs, was a question of urgent importance, and required immediate settlement. Ministers professed to be enlightened by these resolutions, and in the fifth session of a Parliament which had not been specially elected to deal with the question, and which was already in the second half of the legal period of its existence, they proposed an alteration of the Constitution which, according to the admission of one of their number, Mr. Childers, would be the greatest which the country has experienced since the Revolution of 1688. This alteration consisted first, of the extension of the franchise, which has been mentioned, and which it was estimated would add 2,000,000 more voters to the existing electorate of 3,000,000; and, secondly, of the redistribution of seats which such an extension of the franchise would of necessity require. This necessity, it may be observed, is admitted on both sides, and has always been admitted on previous occasions when an enlargement of the electorate has been under discussion. Contrary, however, to all former precedents, and to previous expressions of opinion on the part of many of their own followers, as well as the unanimous judgment of the Conservative Party, the Ministry determined to divide their measure into two, and to devote the Session of 1884 to the first portion of it, namely, the extension of the

franchise, leaving the redistribution of seats to be dealt with in the following Session. Nay, more, they declined to give any hint as to what form their proposal for redistribution would take out of the many possible forms in which it might be moulded; except that Mr. Gladstone hinted at the adoption of a principle of increasing the numerical representation in proportion to the distance from the metropolis—a principle which was afterwards characterised by Mr. Forster as being an absurdity in the present day, however proper it might have been in times of slower and more difficult locomotion. It was evidently impossible to predict with absolute certainty that unavoidable accident might not prevent them from realising their intention of carrying a Redistribution Bill in 1884, yet Mr. Gladstone persistently refused to insert a clause in the Franchise Bill postponing its operation until the measure for redistribution should have passed. Had he consented to do so, there would have been no serious opposition to this Bill in either House; but in the absence of that consent, the Conservative party felt it their duty to resist it in the House of Commons. Mr. Gladstone, however, had no difficulty in overcoming this resistance with the help of the majority of the members who were pledged to his support, and the Bill was sent up to the House of Lords and came on for second reading in that House on the 7th of July. The Ministry still withheld their consent to the proposal, that when the Bill reached Committee a clause should be inserted which should ensure that it should only come into operation concurrently with the Redistribution Bill; and the majority of the Lords taking the same view as the Conservative party in the House of Commons, instead of reading the Bill a second time, passed the following Resolution :—

"That this House, while prepared to concur in the principles of representation contained in this Bill, does not think it right to assent to the second reading of a Bill having for its object a fundamental change in the constitution of the electoral body of the United Kingdom, but which is not accompanied by provisions for so apportioning the right to return members as to ensure a true and fair representation of the people, or by any adequate security in the proposals of the Government that the present Bill shall not come into operation except as part of an entire scheme."

A few days later, in order to make it quite clear that their action in declining to read the Franchise Bill a second time was due not to any hostility to the extension of the franchise or even to a desire to delay it, but simply to their objection to the piece-meal method of legislation adopted by the Ministry, the Peers passed the following further resolution :—

"That this House is of opinion that it would be desirable that Parliament should assemble in the early part of the Autumn for the purpose of considering the Representation of the People Bill already presented to Parliament in conjunction with the Redistribution Bill which Her Majesty's Ministers have undertaken to present to Parliament on the earliest occasion possible."

There the matter at present rests. The Lords have expressed their intention of not passing the Franchise Bill until the Redistribution Bill is also before them. The Government, so far as present appearances go, are resolved to endeavour to force them to do so. A few considerations will suffice to show plainly on which side lie the merits of the dispute.

The merits of the case.

This, it must be remembered, is not an ordinary case of the Upper House declining to proceed with a measure which has passed the Lower House. The Bill in question is part of a measure which is to effect an enormous change in our Constitution. Would the Lords have discharged their duty to the country if they had consented to pass this Bill without having before them the whole of the measure of which it forms part? The answer cannot be otherwise than in the negative. In other countries alterations in the Constitution can only be effected with special solemnities and under careful safeguards. In the United States such a measure as the Lords are being attacked for not passing as a matter of course, would require to be carried in the first instance by a majority of two-thirds in each Chamber of Congress. It would then be submitted to the Legislatures of the different States, and would only become law if three-fourths of them pronounced in its favour. In France, after being passed in both Chambers of the National Assembly, it would have had to be considered by the whole National Assembly sitting as one House, and would only have been added to the Statute Book if a majority of the votes of all the members of the Senate and Chamber of Deputies counted together had pronounced in its favour. In England we have no such elaborate constitutional safeguards; whence some of our Radical friends appear to think that, in the words of Hudibras,

"The Constitution was intended
For nothing else but to be mended."

To those of us, however, who do not accede to this view, it will not appear unreasonable that the Lords, before assenting to a part of the proposed amendment of the Constitution, should have required to have the whole of it before them; or that they

should have declined to be parties to a course of action which involved even the bare possibility that the redistribution scheme, which formed the rest and the most important part of the amendment, should be completed by a Parliament having the members of its Lower House elected by constituencies which had no place in the old Constitution, and were not intended to exist under the new one. It is scarcely necessary to point out that this indefensible result must have occurred, if by some accident the Franchise Bill had been passed and had come into operation, and the present Parliament had come to an end, without its having been found possible to pass the Redistribution Bill.

Coercion. The Government were, in fact, fully alive to this contingency, and their attitude towards it furnishes a further and most complete justification of the course adopted by the House of Lords. We have actually heard from the lips of Ministers themselves, what in the absence of their own confession we should hardly have ventured to impute to them, that they deliberately intended to use this risk as a means of forcing their redistribution scheme down the throats of a reluctant Parliament. Mr. Gladstone first threw a ray of light on this point. At a meeting of his party at the Foreign Office, on July 10th, 1884, he said :—"The good will on the part of the Opposition, which we require in order to give a Redistribution Bill a chance, cannot be had unless they know that the extension of the franchise is to take place, and that if they will not have it with redistribution, they must have it without." Sixteen days later, at Manchester, Lord Hartington let the cat out of the bag still further. His words were :—" We are all—Tories, and Liberals, and Radicals alike—required to act in this matter under some compulsion and under some stimulus, if within the next session, or within the next Parliament, or within the next ten Parliaments we are going to pass a Redistribution Bill. Therefore we maintain that the compulsion and stimulus will be provided, and can be provided only by the passing of the Franchise Bill, which will induce men of all parties, Conservatives and Liberals alike, to desire that the next and greater question of Redistribution should be settled at once, should be settled fairly, should be settled by the present Parliament." It is, then, not the Upper House merely, nor the Conservative party alone, but both Houses and both parties that the Ministry are seeking to coerce. Nor is it them alone. Coercion

of Parliament means coercion of the country at large. The Government deliberately intend that the nation should be bound over, hand and foot, to swallow blindfold whatever new arrangement of the constituencies may best suit the caprice of Mr. Gladstone or the deep designs of Mr. Chamberlain. They pretend that their scheme of reform is ardently desired and impatiently expected by the people. Yet so little confidence have they that their scheme, when it is known, will be supported by public opinion, that they desire to place the country under the necessity of accepting it, before they disclose its details. "Surely,"—as the present Lord Derby observed in the House of Commons in 1866, with reference to this very course of proceeding, when he took a different view of it to what he does at present—"surely in vain is the net spread in the sight of any bird." The Lords, by their recent action, have afforded to the people of England an opportunity of avoiding the net; and if the people, more foolish than the feathered race, reject this opportunity and walk deliberately into the snare, it will have been their own fault and not that of the Upper House. It is just possible, though it appears hardly conceivable, that they will adopt this course, and will even condemn the Peers for warning them of their peril. But if they do, a day of bitter repentance will surely come; and, whatever may be the judgment passed in the immediate present, the verdict of posterity will undoubtedly be that, since the day when they caused the Great Charter to be enrolled on the Statute Book, the Peers of England have rarely done a more signal service to their country than when they insisted that the Government scheme of Reform should be dealt with as a whole, and should be discussed by both Houses of Parliament, and by the nation at large under conditions of absolute freeedom, and not in the baleful atmosphere of coercion.

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